IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 30059 of 2005(C)

AGAINST THE ORDER DATED 10/08/2005 IN EP 209 2003 IN OS.289/1999 of II ADDL.SUB COURT,THRISSUR

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PETITIONER:

C.K. PURUSHOTHAMAN, AGED 41,
S/O. KESAVAN, CHELLARI HOUSE, KANJIRAKKODE DESOM,
KANJIRAKKODE VILLAGE, TALAPPILLY TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT:

P.K. THOMAS,
KUMBINIVALAPPIL HOUSE, THALASSERY DESOM,
THALASSERY VILLAGE, TALAPPILLY TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.K.B.MOHANDAS
SRI.LELLULAL T.G.THUNDATHIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE JUDGMENT IN WPC No.34527/04 DT.25.1.05 ON THE FILE OF THIS HON'BLE COURT.

EXT.P2 : TRUE COPY OF THE ORDER PASSED IN EA NO.1570/04 IN EP NO.209/03 IN OS NO.289/99 DT.28.1.05.

EXT.P3 : TRUE COPY OF THE REVIEW PETITION EA NO.412/05 IN EP NO.209/03 DT.11.3.05.

EXT.P4 : TRUE COPY OF THE ORDER PASSED BY THE ADDL. SUB COURT, THRISSUR IN EA NO.412/05 IN EA NO.1579/04 IN EP NO.209/03 IN OS NO.289/99 DT.10.08.05.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 30059 OF 2005

Dated this the 30th day of May, 2007

JUDGMENT

Ext.P4 order passed by the execution court on an application for review is under challenge in these proceedings under Article 227 of the Constitution initiated by the judgment-debtor. Today, when the case was taken up, it was submitted by both sides that the respondent is no more and his legal heirs have already filed an application before the court below.

Having gone through Ext.P4 and having heard the submissions of the learned counsel for the petitioner, I do not find any warrant to interfere with Ext.P4 since this Court has only a visitorial jurisdiction and is to be exercised only in exceptional cases when the court finds that the order passed by the Subordinate court is vitiated to such an extent that it either offends law directly or is such that can be branded as perverse. Challenge against Ext.P4 shall fail. However, the court below is directed to keep the further proceedings in the execution petition in abeyance for a period of 4 more months in continuation to the stay order passed by this Court. It is open to the petitioner and legal heirs of the respondent in the meanwhile to sought out the issue between themselves.

PIUS C. KURIAKOSE, JUDGE

btt